
Changes to legislation: Broadcasting Act 1996, SCHEDULE 6 is up to date with all changes known to be in force on or before 11 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

SCHEDULE 6

Section 134.

TRANSFER SCHEMES RELATING TO BBC TRANSMISSION NETWORK: SUCCESSOR COMPANIES

Interpretation

1 (1) In this Schedule—

“the Charter” means the ^{M1}Royal Charter of 1st May 1996 for the continuance of the British Broadcasting Corporation;

“preparatory scheme” means a transfer scheme whose main purpose is to provide for a transfer of property, rights or liabilities from the BBC to a wholly-owned subsidiary of the BBC;

“successor company” means a company to which property, rights or liabilities are transferred in accordance with a preparatory scheme at a time when the company is a wholly-owned subsidiary of the BBC;

“transfer” includes—

- (a) any transfer effected by or under an agreement or instrument entered into or executed in pursuance of an obligation imposed by a provision contained in a preparatory scheme by virtue of paragraph 2(1)(g) of Schedule 5;
- (b) the creation of interests, rights or liabilities by or under any such agreement or instrument; and
- (c) the creation of interests, rights or liabilities by virtue of any provision contained in a preparatory scheme by virtue of paragraph 2 of Schedule 5;

and references to a transfer in accordance with a preparatory scheme shall be construed accordingly;

“wholly-owned subsidiary” has the meaning given by [^{F1}section 1159 of the Companies Act 2006] .

(2) Any reference in this Schedule to vesting in accordance with a preparatory scheme or vesting effected by a preparatory scheme shall be construed as a reference to vesting as a result of a transfer in accordance with a preparatory scheme.

Textual Amendments

F1 Words in [Sch. 6 para. 1\(1\)](#) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 162\(c\)](#) (with art. 10)

Marginal Citations

M1 Cm. 3248.

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Statutory accounts

- 2 (1) The following provisions of this paragraph shall have effect for the purposes of any statutory accounts of a successor company.
- (2) The vesting in the company effected by any preparatory scheme shall be taken—
- (a) to have been effected immediately after the end of the last financial year of the BBC to end before the coming into force of the scheme, and
 - (b) to have been a vesting of such property, rights and liabilities as are determined by or under the scheme.
- (3) The value of any asset and the amount of any liability which is taken by virtue of sub-paragraph (2) to have been vested in the company shall be taken to have been—
- (a) in the case where the value or amount is determined by or under the preparatory scheme, that value or amount, and
 - (b) in any other case, the value or amount assigned to the asset or liability for the purposes of the Account or Accounts prepared by the BBC for the purposes of Article 18(2) of the Charter in respect of their last financial year to end before the day on which the preparatory scheme comes into force.
- (4) If an Account or Accounts are prepared by the BBC for the purposes of Article 18(2) of the Charter in respect of the residual part of a financial year, that residual part shall be treated as a financial year of the BBC for the purposes of sub-paragraph (3).
- (5) In this paragraph “statutory accounts”, in relation to a company, means any accounts of that company prepared for the purposes of any provision of the [F²the Companies Act 2006] .

Textual Amendments

F2 Words in *Sch. 6 para. 2(5)* substituted (6.4.2008) by *The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948)*, art. 2(2), **Sch. 1 para. 203(2)** (with arts. 6, 11, 12)

Distributable reserves

- 3 (1) Where statutory accounts of a successor company prepared as at any time would show the company as having net assets in excess of the aggregate of—
- (a) its called-up share capital, and
 - (b) the amount, apart from any property, rights and liabilities transferred to it in accordance with any preparatory scheme, of its undistributable reserves,
- then, for the purposes of [F³section 830 of the Companies Act 2006] and of the preparation as at that time of any statutory accounts of the company, that excess shall be treated, except so far as the Secretary of State may otherwise direct, as representing an excess of the company’s accumulated realised profits over its accumulated realised losses.
- (2) For the purposes of [F⁴section 831 of the Companies Act 2006] so much of any excess of a company’s net assets as falls, in accordance with a direction under this paragraph, to be treated otherwise than as representing an excess of the company’s accumulated realised profits over its accumulated realised losses shall be treated (subject to any modification of that direction by a subsequent direction under this paragraph) as comprised in the company’s undistributable reserves.

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- (3) A direction under this paragraph may provide, in relation to any amount to which it applies, that, on the realisation (whether before or after the company in question ceases to be a wholly-owned subsidiary of the BBC) of such profits and losses as may be specified or described in the direction, so much of that amount as may be determined in accordance with the direction is to cease to be treated as mentioned in sub-paragraph (2) and is to fall to be treated as comprised in the company's accumulated realised profits.
- (4) The Secretary of State shall not give a direction under this paragraph in relation to a successor company at any time after the company has ceased to be a wholly-owned subsidiary of the BBC.
- (5) The consent of the Treasury shall be required for the giving of a direction under this paragraph.
- (6) In this paragraph—
- “called-up share capital” has the same meaning as in the [F5Companies Act 2006] ;
- “net assets” has the meaning given by subsection (2) of [F6section 831 of the Companies Act 2006] ;
- “undistributable reserves” has the meaning given by [F7subsection (4) of that section] ;
- and references in this paragraph, in relation to a company, to statutory accounts are references to accounts of that company prepared in respect of any period in accordance with the requirements of that Act, or with those requirements applied with such modifications as are necessary where that period is not an accounting reference period.

Textual Amendments

- F3** Words in Sch. 6 para. 3(1) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), Sch. 1 para. 203(3) (with arts. 6, 11, 12)
- F4** Words in Sch. 6 para. 3(2) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), Sch. 1 para. 203(4) (with arts. 6, 11, 12)
- F5** Words in Sch. 6 para. 3(6) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), Sch. 1 para. 203(5)(a) (with arts. 6, 11, 12)
- F6** Words in Sch. 6 para. 3(6) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), Sch. 1 para. 203(5)(b) (with arts. 6, 11, 12)
- F7** Words in Sch. 6 para. 3(6) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), Sch. 1 para. 203(5)(c) (with arts. 6, 11, 12)

Dividends

- 4 (1) Where a distribution is proposed to be declared during any accounting reference period of a successor company which includes a transfer date or before any accounts are laid or filed in respect of such a period, [F8sections 836 to 840 of the Companies Act 2006] shall have effect as if—
- (a) references in [F9section 836] to the company's accounts or to accounts relevant under that section, and
- (b) references in [F10section 839] to initial accounts,

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included references to such accounts as, on the assumptions stated in sub-paragraph (2), would have been prepared under [F11 section 394] of that Act in respect of the relevant year (in this paragraph referred to as “the relevant accounts”).

- (2) Those assumptions are—
- (a) that the relevant year had been a financial year of the successor company,
 - (b) that the vesting in accordance with the preparatory scheme had been a vesting of all the property, rights and liabilities transferred to the company in accordance with that scheme and had been effected immediately after the beginning of that year,
 - (c) that the value of any asset and the amount of any liability of the BBC vested in the successor company in accordance with the preparatory scheme had been the value or (as the case may be) amount determined by or under the scheme or (if there is no such determination) the value or amount assigned to the asset or liability for the purposes of the Account or Accounts prepared by the BBC for the purposes of Article 18(2) of the Charter in respect of their financial year immediately preceding the relevant year,
 - (d) that any securities of the successor company issued or allotted before the declaration of the distribution had been issued or allotted before the end of the relevant year, and
 - (e) such other assumptions (if any) as may appear to the directors of the successor company to be necessary or expedient for the purposes of this paragraph.
- (3) If an Account or Accounts are prepared by the BBC for the purposes of Article 18(2) of the Charter in respect of the residual part of a financial year, that residual part shall be treated as a financial year of the BBC for the purposes of sub-paragraph (2)(c).
- (4) The relevant accounts shall not be regarded as statutory accounts for the purposes of paragraph 2.
- (5) In this paragraph—
- “accounting reference period” has the meaning given by [F12 section 391 of the Companies Act 2006] ;
- “complete financial year” means a financial year ending with 31st March;
- “the relevant year”, in relation to any transfer date, means the last complete financial year ending before that date;
- “a transfer date”, in relation to a successor company, means the date of the coming into force of any preparatory scheme in accordance with which property, rights or liabilities are transferred to that company.

Textual Amendments

- F8** Words in Sch. 6 para. 4(1) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 203\(6\)\(a\)](#) (with arts. 6, 11, 12)
- F9** Words in Sch. 6 para. 4(1)(a) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 203\(6\)\(b\)](#) (with arts. 6, 11, 12)
- F10** Words in Sch. 6 para. 4(1)(b) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 203\(6\)\(c\)](#) (with arts. 6, 11, 12)
- F11** Words in Sch. 6 para. 4(1) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), [Sch. 1 para. 203\(6\)\(d\)](#) (with arts. 6, 11, 12)

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F12 Words in Sch. 6 para. 4(5) substituted (6.4.2008) by The Companies Act 2006 (Consequential Amendments etc) Order 2008 (S.I. 2008/948), art. 2(2), Sch. 1 para. 203(7) (with arts. 6, 11, 12)

Application of the Trustee Investments Act 1961

- 5 (1) For the purpose of applying paragraph 3(b) of Part IV of Schedule 1 to the ^{M2}Trustee Investments Act 1961 (which provides that shares and debentures of a company shall not count as wider-range and narrower-range investments respectively within the meaning of that Act unless the company has paid dividends in each of the five years immediately preceding that in which the investment is made) in relation to investment in shares or debentures of a successor company during the calendar year in which the transfer date falls (“the first investment year”) or during any year following that year, the successor company shall be deemed to have paid a dividend as there mentioned—
- (a) in every year preceding the first investment year which is included in the relevant five years, and
 - (b) in the first investment year, if that year is included in the relevant five years and the successor company does not in fact pay such a dividend in that year.
- (2) In sub-paragraph (1)—
- “the relevant five years” means the five years immediately preceding the year in which the investment in question is made or proposed to be made;
 - “the transfer date”, in relation to a successor company, means the first date on which any preparatory scheme in accordance with which property, rights or liabilities are transferred to that company comes into force.

Marginal Citations

M2 1961 c. 62.

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Changes and effects yet to be applied to :

- specified provision(s) amendment to earlier commencing SI 2003/3142 art. 4 Sch. 2 by [S.I. 2004/545 art. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 97(1)-(2A) substituted for s. 97(1)(2) by [2003 c. 21 s. 299\(1\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 97(5A)(5B) inserted by [2003 c. 21 s. 299\(4\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 101(1)-(1D) substituted for s. 101(1) by [2003 c. 21 s. 300\(2\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)
- s. 101(5) inserted by [2003 c. 21 s. 300\(4\)](#) (Ss. 299(1)(3)(4), 300 were due to be commenced on 30.6.2004 by S.I. 2003/3142, art. 4(3), but that commencing provision was omitted (8.6.2004) by virtue of S.I. 2004/1492, art. 2)